

**APPLICANT: MS CONSTANCE NOLUTHANDO NZIWENI**

**COURT FOR WHICH CANDIDATE APPLIES: WESTERN CAPE**

**DIVISION OF THE HIGH COURT OF SOUTH AFRICA**

**1. The candidate's appropriate qualifications**

1.1. BProc;

1.2. LLB;

1.3. The candidate is appropriately qualified.

**2. Whether the candidate is a fit and proper person**

2.1. The candidate's record appears to render her fit and proper as she is appropriately qualified and is in good standing with the relevant law bodies.

**3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa**

3.1. The candidate is a black woman. Her appointment would thus help reflect the racial and gender composition of South Africa.

**4. The candidate's commitment to the values of the constitution**

4.1. The candidate's record shows that she has a sound appreciation of the values of the Constitution.

**5. The candidate's knowledge of the law, including constitutional law**

5.1. The candidate's experience appears to be primarily in criminal law. However, the candidate's judgments in civil matters show that she has a sound grasp of civil litigation, including delict, contract and matrimonial law.

5.2. The candidate has limited experience in constitutional law apparently because of the limited scope in jurisdiction of the Magistrates Court when it comes to constitutional issues.

**6. Whether any judgments have been overturned on appeal**

6.1. The candidate indicates that none of her judgments has been taken on or overturned on appeal. It appears this is because the candidate only began acting as a judge relatively recently.

**7. The extent and breadth of the candidate's professional experience**

7.1. The candidate has been a Magistrate for some 18 years, which is the greater part of her career in law.

**8. The candidate's linguistic and communication skills:**

8.1. The candidate has a very good grasp of the English language as evidenced by her lucid judgments.

**9. The candidate's ability to produce judgments promptly**

9.1. The candidate appears to have the ability to deliver judgments promptly. She does not have long-overdue judgments reserved.

**10. The candidate's fairness and impartiality**

10.1. Members experience the candidate as even-handed.

**11. The candidate's independent mindedness**

11.1. There is nothing on record to cause concern about the candidate's independent mindedness.

**12. The candidate's ability to conduct court proceedings**

12.1. Some members raised minor concerns about the candidate's knowledge of the practice in motion court proceedings during the candidate's first acting stint. It appears however that the candidate has become more experienced and is now reasonably familiar with motion court practices.

**13. The candidate's administrative ability**

13.1. There is nothing on record to suggest that the candidate lacks administrative capabilities. Her ability to produce judgments promptly suggests that she possesses good time management skills.

**14. The candidate's reputation for integrity and ethical behaviour**

14.1. The candidate is of good repute.

**15. The candidate's judicial temperament**

15.1. The candidate is even handed and has a good temperament.

**16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community**

16.1. There is limited available information in this regard. The candidate does not appear to have any cognisable extra-mural and community related activities.

**17. The candidate's potential**

17.1. The candidate has the potential to develop into a good judge. However, the candidate may well benefit from further acting stints before being considered for permanent appointment as a judge.

**18. The message that the candidate's appointment would send to the community at large**

18.1. That South Africa is committed to the advancement and progression of black women candidates in the legal profession.

## **ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

### **Reported decisions**

Not applicable

### **Unreported Decision**

See annexures to application.

### **Judgments upheld on appeal**

### **Judgments overturned on appeal**

Not applicable